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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,872	08/27/2003	David M. Avery	PHB 34,372A	4908

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT	PAPER NUMBER
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2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary

Application No.

10/648,872

Applicant(s)

AVERY, DAVID M.

Examiner

Brian A. Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

EXAMINER'S RESPONSE

Status of Application

In response to the applicant's amendment received on 2/9/07. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 11-28 are unpatentable for the reasons set forth in this office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

This application has been reassigned to a new examiner. Please address all future communications to the examiner listed at the bottom of the Office Action.

Drawings

The drawings were received on 2/9/07. These drawings are approved except for the following problem:

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the step of transmitting a wake-up message from the interrogation station to the remote units must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. Claims 11, 12, 16-20 and 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (5920261).

Regarding claims 11, 19, 27 and 28 Hughes teaches a radio system comprising a plurality of spatially separate radio units 10, a central station 4 and an interrogation station (elements 6 and 8 combine to form an interrogation station). Hughes additionally shows a uniquely identifiable transponding station 14. The central station 4 transmits an enquiry signal to the interrogating station 6-8, which then passes on an enquiry signal including the transponder 14 for which location information is desired,

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see col. 6 lines 64+. The interrogation station 6-8 additionally rebroadcasts the enquiry signals to the transponder stations. The interrogation station then determines the location of the transponder based upon the signal strength of the reply message from the transponder 14, when the interrogation station and associated remote units 10 are activated.

Hughes discloses that the locating receiver 10 receives a wake-up signal and therefore has a sleep mode. Providing the locating receiver with a sleep mode prevents confusion in transmission receptions. See figure 12b and col. 11 lines 35-45. The computer sends a wake up signal to the interrogation station 6-8 which then passes on the wake up signal to the array of receiving stations 10. The difference between the claim and Hughes is that Hughes does not expressly state the manner in which the wake up signal is sent to the remote unit (locating receiver). Hughes does have a signal sent from the interrogation station 6-8 to wake up the remote unit 10 but does not expressly include a radio unit identification in the wake up message.

Hughes does teach wake up message to transponders 14 that include a wake up portion and an identification portion. See figure 7a and 7b. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a similar wake up signal for waking up the remote unit 10 as the wake up signal for waking up the transponder 14.

Additionally, it is noted the applicant's disclosure paragraph 34 discusses the wake up procedure can be **any suitable protocol**. This is evidence of two things, 1) that the particular procedure to wake up the radio unit is not critical to the invention (see

also in re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)) and additionally 2) the particular procedure to wake up the radio is invented by the inventor of the WO-A-99/25051.

Specific discussion of claims 12,16-18,20 are set forth in the previous office action and are incorporated herein. It is noted that the applicant has not pointed out any deficiencies in the rejection of these claims.

2. Claims 13-15,21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes as applied to claims 11,12,19 and 20 above, and further in view of Shober (5952922).

Specific discussion of claims 13-15,21-23 are set forth in the previous office action and are incorporated herein. It is noted that the applicant has not pointed out any deficiencies in the rejection of these claims.

Response to Arguments

Applicant's arguments filed 2/9/07 have been fully considered but they are not persuasive.

Regarding all claims, the applicant argues that Hughes does not teach sending a wake up call to radio units that are communicating with the interrogation unit.

The applicant continues stating that the location-detecting receivers in Hughes do not require wake up signals. This is incorrect in that the radio units 10 do in fact

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receive a wake up message, see col. 11 lines 40-45 and figure 12b. And the radio units do in fact receive these wake up messages from the interrogation stations 6-8.

Additionally, it is noted the applicant's disclosure paragraph 34 discusses the wake up procedure can be **any suitable protocol**. This is evidence of two things, 1) that the particular procedure to wake up the radio unit is not critical to the invention (see also in re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)) and additionally 2) the particular procedure to wake up the radio is invented by the inventor of the WO-A-99/25051.

Additionally the "wherein" clauses of claims 11-18 provide a manner of operating the structural elements of the claims. As per MPEP 2114, the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus. Since the structure set forth in claim 11 is shown by the Hughes the operation of the structural elements does not differentiate the claimed apparatus. The applicant has not argued that the structure of claim 11 is not shown by Hughes.

Additionally the "for" clauses of claim 27 provides a manner of operating the structural elements of the claims. As per MPEP 2114, the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus. Since the structure set forth in claim 27 is shown by the Hughes the operation of the structural elements does not differentiate the claimed apparatus. The applicant has not argued that Hughes does not show the structure of claim 27.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

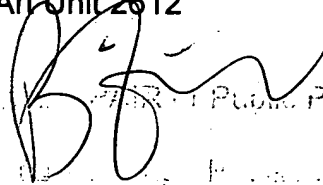
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on 7 am to 4 pm E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian A Zimmerman
Primary Examiner
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BZ